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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/653,610

Filing Date: August 31, 2000

Appellant(s): SAULPAUGH ET AL.

Robert C. Kowert
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 01/11/2005.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims is as follows:

This appeal involves claims 1-5, 13-22, 30-39, and 47-51.

Claims 6-12, 23-29, and 40-46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Prior Art of Record

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

6,088,451	**HE ET AL.**	**07-2000**
6,609,108	**PULLIAM ET AL.**	**08-2003**

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-5, 13-22, 30-39, and 47-51are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 18 and 35 is rejected under 35 U.S.C. 102(e) as being anticipated by He et al. (US 6,088,451), hereinafter referred as He.

4. As to claim 1, **He** teaches a method for accessing a service in a distributed computing environment, comprising:

a client receiving a capability credential, wherein said capability credential indicates that the client is allowed to access a portion of a first service's capabilities *(i.e., the user sends a message to the credential server 204 to request for a list of the user credentials, based on the user identifier, the credential server 204 will retrieve the list of user credentials from the registration database 210 and sent back to the user in a response message, wherein the list of the user credentials will be presented to a network element 104 for making further access decisions on network resources and information)* (He, col. 18, line 33 – col. 19, line 8);

the client using a capability credential to request an access interface document to access a service *(i.e., the client using the received credential ticket containing a list of user credentials issued by the credential server 204 in the above step to request access to the pull-down menus (of a Webpage or GUI), i.e., an access interface document, via the access server 206 and the security server 208; and once in authorization O.K. state 506, the user is permitted to access pull down menus to identify those network elements to which is allowed to access, i.e., to access the available services/network elements according to his capability credential)* (He, col. 20, line 14 – col. 21, line 22 and col. 26, lines 58-65);

the client receiving said access interface document, wherein said access interface document comprises an interface for accessing only said portion of the first service's capabilities *(i.e., once the authorization is OK, the user is permitted to access*

the document/GUI with the pull-down menus to access not all but only the available services/network elements according to his capability credential) (He, col. 26, lines 58-65); and

the client using the interface from said access interface document to access a capability from said portion of the first service's capabilities *(i.e., the user can make an access request by selecting/clicking on one of the available services/network elements listed by the pull-down menus)* (He, col. 26, lines 58-65).

5. Claim 18 is a corresponding client device claim of method claim 1; therefore, it is rejected under the same rationale.

6. Claim 35 is a corresponding carrier medium claim of method claim 1; therefore, it is rejected under the same rationale.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 2-5, 13-17, 19-22, 30-34, 36-39 and 47-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over He, in view of Pulliam et al. (US 6,6,09,108), herein after referred as Pulliam.

9. As to claim 2, He teaches using said capability credential to request an access interface document as in claim 1, but does not explicitly teach sending an advertisement request message in a data representation, wherein said advertisement request message includes said capability credential.

In the related art, Pulliam teaches an online shopping communication schema for communicating online orders, wherein a message client 924 (Fig. 10) is a multi-threaded HTTP process that provides the required functions to receive the XML formatted document *(i.e., a document/GUI with the pull-down lists of makes and models as an access interface document to access to those makes and models)*, then generates and sends XML messages *(i.e., generates and send messages to request information about some particular makes and models, i.e., advertisement request messages)* and application credentials to and from the locate server; and the listener 902 of the server 821 (Fig. 9) accepts messages and provides support for authenticating whom the request is from using private key infrastructure (PKI) encrypted user credentials to allow or deny access to specific functions and data sets supported by the server based on the requestor's identity/credentials (Pulliam, col. 14, lines 34-45 and col. 15, lines 38-42).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of He and Pulliam to request an access interface document by sending an advertisement request message in a data representation, wherein said advertisement request message includes said capability credential since such methods were conventionally employed in the art to submit request messages along with attached client/user's credentials to the security system for authentication requirement to obtain access to protected information and service.

10. As to claim 3, He-Pulliam teaches the method of claim 2, wherein said data representation language is eXtensible Markup Language (XML) (Pulliam, col. 16, lines 40-50).

11. As to claim 4, He-Pulliam teaches the method of claim 2, further comprising in response to receiving said advertisement request message, generating and sending an advertisement request response which includes a custom advertisement according to said portion of the first service's capabilities that the client is allowed to access *(i.e., in response to the client request, based on the ID, authorization, capability credential of the client, the server generates pull-down menus to identify those capabilities to which the client is allowed/authorized to access, such as pull-down lists of available makes and models)* (He, col. 26, lines 58-65 and Pulliam, col. 13, lines 34-40).

12. As to claim 5, He-Pulliam teaches the method of claim 4, wherein said custom advertisement specifies an XML schema defining messages to be sent to and from the first service *(i.e., since a message client 924 is a multi-threaded HTTP process that provides the required functions to received the XML formatted document, then generates and sends XML messages and application credentials to and from the server, i.e., to and from the first service)* (Pulliam, col. 15, lines 39-43 and col. 16, lines 40-50).

13. As to claim 13, He-Pulliam teaches the method of claim 1, wherein said access interface document comprises a schema *(i.e., XML schema)* defining messages for accessing said portion of the first service's capabilities, wherein said using the interface from said access interface document to access a capability comprises sending a message according to said schema to the first service *(i.e., using the pull down list to access available information/services via generating and sending XML messages and application credentials to and from the server)* (Pulliam, col. 15, lines 39-43 and col. 16, lines 40-50).

14. As to claim 14, He-Pulliam teaches the method of claim 13, wherein said message includes said capability credential *(i.e., the list of user credentials contained in the credential ticket)*, the method further comprising the first service *(i.e., the network element access server 206)* using said capability credential to authenticate said message as from the client (He, col. 20, lines 28-67 and col. 21, lines 1-13).

15. As to claim 15, He-Pulliam teaches the method of claim 1, wherein said access interface document comprises a schema *(i.e., XML schema)* defining messages for accessing said portion of the first service's capabilities, wherein the client using said access interface document to construct a message gate for sending messages to the first service *(i.e., a message client 924 provides the required functions to receive the XML formatted document, then generates and sends XML messages and application credentials to and from the server)*, wherein the message gate embeds said capability credential in each message *(as well-known to one having ordinary skill in the art that every message is generated/constructed with embedded user/client identity such as user ID, source address, priority, etc.)* (Pulliam, col. 15, lines 26-43).

16. As to claims 16-17, He-Pulliam teaches the method of claim 15, wherein the message gate checks each message for compliance with said message schema, which is an XML schema *(i.e., a message client 924 provides the required functions to receive the XML formatted document, then generates, sends and receives XML messages to and from the server)* (Pulliam, col. 15, lines 26-43 and col. 16, lines 40-50).

17. Claims 19-22 and 30-34 are corresponding client device claims of method claims 2-5 and 13-17; therefore, they are rejected under the same rationale.

18. Claims 36-39 and 47-51 are corresponding carrier medium claims for method claims 2-5 and 13-17; therefore, they are rejected under the same rationale.

(11) Response to Arguments

In the remarks, applicant argued in substance that

(**A**) Prior Art fails to teach "a client using a capability credential to *request an access interface document* to access a service, the client *receiving the access interface document*, wherein the access interface document *comprises an interface for accessing only a portion of the service's capabilities*, and the client *using the interface from the access interface document* to access a capability from the portion of the service's capabilities", **as claimed in independent claims 1, 18, and 35**.

As to point (**A**), before addressing the argument, the examiner submits that the language of the limitation cited in the quotation *"an access interface document to access a service"* can be given a broad and reasonable interpretation in light of specification as *"a document or a web page with a graphical user interface (GUI) such as pull-down menus listing available services to which the client is allowed/authorized to access"*. In his reference **(US 6,088,451)**, **He** teaches a method for accessing a service in a distributed computing environment, wherein the client using the received credential ticket containing a list of user credentials issued by the credential server 204 **(He, col. 18, line 33 – col. 19, line 8)** to request a document or a GUI *(or a web page)* with the pull-down menus, via the access server 206 and the security server 208, in order to access the available services/network elements according to his capability credential *(i.e., using a capability credential to request an access interface document to access a service)* **(He, col. 20, line 14 – col. 21, line 22 and col. 26, lines 58-65)**; wherein the

document/GUI *(or a web page)* comprises pull-down menus for the client to access available services/network elements according to his capability credential *(i.e., the access interface document comprises an interface for accessing only a portion of the service's capabilities)*; as illustrated in Fig. 5, upon successful completion of the login, the process transitions to an "Authorization O.K." state 506, then the user is permitted to access pull-down menus to access not all but only the available services/network elements according to his capability credential. The user can make an access request by selecting/clicking on one of the available *(authorized)* services/network elements listed by the pull-down menus *(i.e., the client using the interface from said access interface document to access a capability from said portion of the first service's capabilities)* **(He, col. 26, lines 58-65)**.

(**B**) Prior Arts fail to teach "wherein using a capability credential to request an access interface document comprises *sending an advertisement request message in a data representation language*, wherein the advertisement request message includes the capability credential", **as claimed in claims 2, 3, 19, 20, 36, and 37**.

As to point (**B**), **He** teaches the client using said capability credential *(i.e., using the list of the user credentials retrieved by the credential server 204)* to request an access interface document *(i.e., sending a request along with the list of the user credentials)* as in claim 1 above **(He, col. 18, line 33 – col. 19, line 8)**, but does not explicitly teach sending an advertisement request message in a data representation language.

However, in a related art, **Pulliam** teaches an online shopping communication schema for communicating online orders, wherein a message client 924 *(as in Fig. 10)* is a multi-threaded HTTP process that provides the required functions to receive the XML formatted document *(i.e., receiving a document/GUI with the pull-down lists of available makes and models as an access interface document to access to those available makes and models)*, then generates and sends XML messages and application credentials to and from the locate server *(i.e., exchanges XML messages to request information about one of the available makes and models, i.e., exchanging advertisement request messages in a data representation language with the server)* **(Pulliam, col. 15, lines 39-43 and col. 16, lines 40-50)**.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of **He** and **Pulliam** to request an access interface document by sending an advertisement request message in a data representation, wherein said advertisement request message includes said capability credential since such methods were conventionally employed in the art to submit request messages along with attached client/user's credentials to the security system for authentication requirement to obtain access to protected information and service.

Also, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

(**C**) Prior Arts fail to teach "*generating a custom advertisement in response* to receiving the advertisement request message, the custom advertisement is generated according to the portion of the service's capabilities that the capability credential indicates the client is allowed to access, and *sending an advertisement request response message* to the client, wherein the advertisement request response message includes the custom advertisement as the access interface document", **as claimed in claims 4, 21, and 38**.

As to point (**C**), **He** teaches upon successful completion of the login *(i.e., the capability credential indicates the client is allowed to access)*, the system generates a document/GUI with pull-down menus interface *(i.e., the access interface document)* to identify the available services/network elements to which the user is allowed/authorized to access based on the user credentials, such as a pull-down menu of available makes and models *(i.e., a custom advertisement request response message)* as mentioned by **Pulliam** *(i.e., generating a custom advertisement in response to receiving the advertisement request message, the custom advertisement is generated according to the portion of the service's capabilities that the capability credential indicates the client is allowed to access, and sending an advertisement request response message to the client, wherein the advertisement request response message includes the custom advertisement as the access interface document)*. Then, the user can make an access request by selecting/clicking on one of the available services/network elements listed by the pull-down menus **(He, col. 26, lines 58-65 and Pulliam, col. 13, lines 34-40).**

(**D**) Prior Arts fail to teach "a custom advertisement that specifies an *XML schema defining messages* to be sent by the client to the service and messages to be sent from the service to the client to use the portion of the service's capabilities", **as claimed in claims 5, 22, and 39**.

As to point (**D**), **Pulliam** teaches a message client 924 in Fig. 10 is a multi-threaded HTTP process that provides the functions to received the XML formatted document, then generates and sends XML messages and application credentials to and from the locate server, i.e., generates and send XML messages to and from the services/network elements. Also, the search requests maybe submitted in the form of XML messages and the responses be received in an XML, wherein the returned values are then used to populate the pull-down lists/menus of available makes and models to which the user is allowed/authorized to access by exchanging XML request/response messages with the server *(i.e., exchanging XML custom advertisement messages with the server according to the portion of the service's capabilities)* **(Pulliam, col. 13, lines 22-42, col. 15, lines 39-43 and col. 16, lines 40-50)**.

(**E**) Prior Arts fail to teach "wherein said access interface document *comprises a schema defining messages* for accessing said portion of the first service's capabilities, wherein said using the interface from said access interface document to access capability *comprises sending a message according to said schema* to the first service", **as claimed in claims 13, 14, 30, 31, 47, and 48**.

As to point (**E**), please see the argument in point (**D**) above.

(**F**) Prior Arts fail to teach "the client using the access interface document *to construct a message gate* for sending messages to the first service, wherein the message gate *embeds the capability credential in each message*", **as claimed in claims 15, 32, and 49**.

As to point (**F**), Pulliam teaches a message client 924 provides the required functions to receive the XML formatted document *(i.e., a document/GUI with pull-down menus interface)*, then generates and sends XML messages and application credentials to and from the server via the XML formatted document *(i.e., constructing a message gate for sending messages to the first service)*, wherein as well-known to one having ordinary skill in the art that every message is generated/constructed with embedded user/client identity such as user ID, source address, priority, etc. *(i.e., embedding the capability credential in each message)* **(Pulliam, col. 15, lines 26-43)**.

(**G**) Prior Arts fails to teach "wherein the message gate checks each message for compliance with said message schema, which is an XML schema", **as claimed in claims 16, 17, 33, 34, 50, and 51**.

As to point (**G**), **Pulliam** teaches a message client 924 provides the required functions to receive the XML formatted document, then generates, sends and receives XML request/response messages to and from the server **(Pulliam, col. 15, lines 26-43 and col. 16, lines 40-50)**.

Examiner has considered all of applicant's arguments.

The ultimate determination of patentability must be based on consideration of the entire record, by a preponderance of evidence, with due consideration to the persuasiveness of any arguments and any secondary evidence. In re Oetiker, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). The submission of objective evidence of patentability does not mandate a conclusion of patentability in and of itself. In re Chupp, 816 F.2d 643, 2 USPQ2d 1437 (Fed. Cir. 1987). Facts established by rebuttal evidence must be evaluated along with the facts on which the conclusion of a prima facie case was reached, not against the conclusion itself. In re Eli Lilly, 902 F.2d 943, 14 USPQ2d 1741 (Fed. Cir. 1990). In other words, each piece of rebuttal evidence should not be evaluated for its ability to knockdown the prima facie case. All of the competent rebuttal evidence taken as a whole should be weighed against the evidence supporting the prima facie case. In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). Although the record may establish evidence of secondary considerations which are indicia of nonobviousness, the record may also establish such a strong case of obviousness that the objective evidence of nonobviousness is not sufficient to outweigh the evidence of obviousness. Newell Cos. v. Kenney Mfg. Co., 864 F.2d 757, 769, 9 USPQ2d 1417, 1427 (Fed. Cir. 1988), cert. denied, 493 U.S. 814 (1989); Richardson-Vicks, Inc., v. The Upjohn Co., 122 F.3d 1476, 1484, 44 USPQ2d 1181, 1187 (Fed. Cir. 1997) (showing of unexpected results and commercial success of claimed ibuprofen and psuedoephedrine combination in single tablet form, while supported by substantial evidence, held not to overcome strong prima facie case of obviousness).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Quang N. Nguyen
March 22, 2005

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